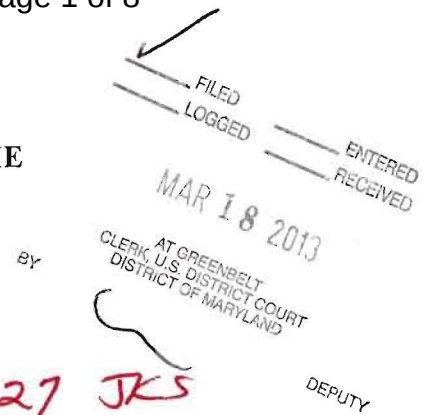


Ada A. Freitas

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MARYLAND



IN THE MATTER OF THE APPLICATION)
OF THE UNITED STATES OF AMERICA)
FOR A SEARCH WARRANT FOR THE)
GOOGLE, INC. ACCOUNT)
RESQ78@GMAIL.COM)

Crim. No.

13-327 JKS

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

I, Douglas Macfarlane, (your Affiant) Special Agent with the Federal Bureau of Investigation, Linthicum, Maryland, Major Case Coordination Unit, being duly sworn, hereby deposes and states as follows:

BACKGROUND OF AFFIANT

1. I have been employed as a Special Agent ("SA") with the Federal Bureau of Investigation (FBI) since April 1996, and I am currently assigned to the FBI's Violent Crimes Against Children Section, Major Case Coordination Unit ("MCCU"). I am currently investigating federal violations concerning child pornography and the sexual exploitation of children and have gained experience through training in seminars, classes, and everyday work related to these types of investigations. I have participated in the execution of numerous warrants involving the search and seizure of computers, computer equipment, software, and electronically stored information.

2. As a federal agent, I am authorized to investigate violations of the laws of the United States and am a law enforcement officer with the authority to execute warrants issued under the authority of the United States.

3. This affidavit is made in support of applications for a search warrant for

information associated with a certain account that is stored at a premises owned, maintained, controlled, or operated by Google Inc., an electronic communications / Internet service provider headquartered at 1600 Amphitheatre Parkway, Mountain View, California 94043. The information to be searched is described in the following paragraphs and in Attachment B. This affidavit is made in support of an application for a search warrant under Title 18, U.S.C. § 2252A (use of a computer in or affecting interstate commerce to possess, receive, or distribute child pornography), to require Google Inc. to disclose to the government records and other information in its possession pertaining to the subscriber or customer associated with the electronic account of resq78@gmail.com, more particularly described in Attachment A.

4. This affidavit is requesting authority to search the electronic account described in Attachment A and seize all items listed in Attachment B as instrumentalities, fruits, or evidence of crime. Electronic accounts such as those maintained by Google Inc. can contain stored electronic information including previously saved email conversations and instant message conversations along with any data files attached to these saved communications.

5. Since this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts I believe necessary to establish probable cause to believe that evidence, fruits, or instrumentalities of the violations of Title 18, U.S.C. § 2252A including, but not limited to, the items described on Attachment B, which is attached hereto and incorporated herein by reference, are presently located at the premises described on Attachment A, which is also attached hereto and incorporated herein by reference.

STATUTORY AUTHORITY

6. This investigation concerns alleged violations of Title 18, U.S.C. § 2252A:

18 U.S.C. § 2252A prohibits a person from knowingly transporting, receiving, distributing, reproducing for distribution, and possessing any child pornography, as defined in 18 U.S.C. §2256(8), when such child pornography was either mailed or shipped or transported in interstate or foreign commerce by any means, or in or affecting interstate or foreign commerce by any means, including by computer, or when such child pornography was produced using materials that had traveled in interstate or foreign commerce.

PROBABLE CAUSE

7. In 2012, the FBI field office in El Paso, Texas was investigating William Marvin Fowler ("Fowler") for child pornography offenses. Your Affiant has reviewed the FBI case file regarding this investigation and has learned the following:

- a. On February 14, 2012, a federal search warrant was executed at Fowler's residence in El Paso, Texas. In an interview with FBI agents during the search, Fowler admitted he possessed numerous images and videos of child pornography. A subsequent review of Fowler's computer devices confirmed his admission.
- b. Also on February 14, 2012, Fowler was arrested on federal child pornography charges. He subsequently pleaded guilty to these charges.
- c. On March 30, 2012, Fowler again met with FBI agents in El Paso, Texas. Fowler gave consent for the FBI to take over his email account, ("takeover account").

8. The takeover account information was later forwarded to the MCCU by FBI agents in Texas to assist with the investigation. On January 9, 2013, your Affiant logged into the takeover account from an FBI undercover computer in Linthicum, Maryland and found an email to the takeover account from email address resq78@gmail.com dated November 29, 2011. Attached to this email were four pictures of a prepubescent female. Three of the pictures

depicted the female changing her underwear, and her genitalia was visible. The fourth picture depicted the female sitting on the floor wearing her underwear with her legs spread wide open.

9. Also on January 9, 2013, Your Affiant sent the following email to resq78@gmail.com from the takeover account:

“Hey, I was going through some old emails and I found these pics you sent me. I had forgotten about them—they are great! I love them young! Anything new? How are things going? :) M”

10. Later that day on January 9, 2013, an email was sent from resq78@gmail.com to the takeover account that was titled “I have tons.” Attached to this email was a compressed file¹ that contained 27 pictures of predominantly nude or partially clothed prepubescent minors. One of the picture files was named “1262427968243.jpg,” and it depicted a prepubescent female pulling down her bathing suit to expose her genitalia. Another picture file was named “1272750025413.jpg,” and it depicted a prepubescent female nude from the waist down laying on a bed with her legs slightly spread, exposing her genitalia. A third picture file was named “ZIMGP4433.jpg,” and it depicted a prepubescent female who is covered in what appears to be semen while she is looking at an adult penis that is visible in the lower portion of the picture.

CONCLUSION

11. Based on the foregoing, I respectfully submit that there is probable cause that Google, Inc., 1600 Amphitheatre Parkway, Mountain View, California 94043, maintains

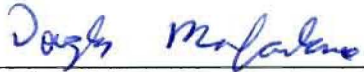
¹ A compressed file is a folder that may contain one or more files inside. In order to access the files inside, a user must open or decompress the folder. Compressed files can often times take up less space than the sum of the parts inside of it due to computer algorithms that shrink size of the overall compressed folder.

evidence in the account described in Attachment A to this affidavit of a violation of 18 U.S.C. § 2252A. This evidence, listed in Attachment B to this affidavit, which is incorporated herein by reference, is contraband, the fruits of crime, or things otherwise criminally possessed, or property which is or has been used as the means of committing the foregoing offenses.

12. Therefore, I respectfully request that the attached warrant be issued authorizing the search and seizure of the items listed in Attachment B.

13. Pursuant to Title 18, U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

14. Pursuant to Title, 18 U.S.C. § 2705(b), your Affiant requests the Court order Google, Inc. not to notify any other person of the existence of this warrant for the next 180 days. This request is made because the existence of the warrant will seriously jeopardize the ongoing investigation.


Special Agent
Douglas Macfarlane
Federal Bureau of Investigation

SUBSCRIBED TO AND SWORN BEFORE ME
THIS 15th DAY OF FEBRUARY, 2013


HONORABLE JILLYN K. SCHULZE
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

ITEMS TO BE SEIZED AND SEARCHED

This warrant applies to information associated with the electronic account:
resq78@gmail.com; which is stored at premises owned, maintained, controlled, or operated by
Google, Inc., 1600 Amphitheatre Parkway, Mountain View, California 94043

ATTACHMENT B

SPECIFIC ITEMS TO BE SEIZED

I. Information to be disclosed by Google Inc.

Google Inc. is required to disclose the following information to the government for each account or identifier listed in Attachment A:

1. The contents of all e-mails and instant messages stored in the account, including copies of e-mail and instant messages sent to and from the account, e-mail and instant message drafts, the source and destination e-mails and messages sent addresses associated with each e-mail and message, the date and time at which each e-mail and instant message was sent, and the size and length of each e-mail and instant message, attachments, including visual depictions of children clothed, partially clothed or engaged in sexually explicit conduct pursuant to 18 U.S.C. § 2256;
2. All records or other information regarding the identification of the account, to include full name, physical address, telephone numbers and other identifiers, records of session times and durations, the date on which the account was created, the length of service, the types of service utilized, the IP address used to register the account, log-in IP addresses associated with session times and dates, account status, alternative e-mail addresses provided during registration, methods of connecting, log files, and means and source of payment (including any credit or bank account number);
3. All records or other information stored by an individual using the account, including address books, contact and buddy lists, calendar data, pictures, and files;

4. All records pertaining to communications between resq78@gmail.com and any person regarding these accounts, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence or instrumentalities of violations of Title 18, U.S.C. § 2252A involving electronic account resq78@gmail.com, including, for each account or identifier listed on Attachment A, information pertaining to the following matters:

1. Communications to/from the electronic account resq78@gmail.com or other electronic data (such as unsent communication drafts) contained in resq78@gmail.com that demonstrate violations of Title 18, U.S.C. § 2252A.
2. Records relating to who created, used, or communicated with the account or identifier, including records about their identities and whereabouts.